1949. **File No.** Finance II/49 (R)

p 6E — Legal Deptt.

B BRANCH

Subject:- Rules under the Bombay Finance Act 1932

File No. Finance II/49 (R)

357-B

Legal Department.

The draft rules as amended are in order.

2. Draft rule 4 - As the scope of new Part VII of the Act is restricted to advertisements appearing in newspapers it would be outside the scope of rule making authority to ask the newspaper authorities to maintain accounts of other matters appearing in the newspapers etc. The rule and Form I have therefore been restricted to advertisements.

3. Draft rule 7 - Reference to sub-section (2) of section 33 made in the Finance Department rule is not correct. That rule has been revised so as to refer to sub-section (2) of section 34.

4. Draft rule 14:- It will be seen from the debates in the Bombay Legislative Council dated the 11th March 1949 that while speaking on an amendment to the Bill proposed to be moved by Mr.Mandlik, H.M.(F.D.) gave an assurance to the House that the appellate authority will be the Sales Tax Tribunal constituted under the Bombay Sales Tax Act, 1946. The draft rule has therefore been suitably amended for prescribing the Sales Tax Tribunal as the appellate authority.

5. Draft rule 15 There is no provision in the Act under which it is legally possible to levy a court-fee of rupee one on an appeal or application made under the act. The provision in the rule requiring that every appeal shall bear a court fee stamp of rupee one has therefore been omitted.

Sd/- J.R.D.

Additional Secretary to Government.

U.R. to F.D.,No.3479, dated the 31st March 1949.

B/7/47

.K.N.2/6/56

4C.

Le al Department.

In place of the Department's draft at page 7 ante a revised draft notification is sent herewith.

2. Under sub-section (3) of section 11 of the Bombay Finance Act, 1932, the draft amendments require previous publication.

Sd/ J. R. D.

Additonal Secretary to Government.

E.K.N.2/6/56

4C.

U.R.to R.D. No 3514 dt. the 31st March 1949

Legal Department.

Although the difficulty caused by the system of continuous meter reading referred to in the letter of the Secretary of the Association of Electrical Undertaking is real, it is not necessary to forgo the tax leviable on the units of energy consumed from 1-4-1949 to the date on which the meters are read. It will be possible a levy pro rata electricity duty on the Units of energy consumed during the period, and legal cover can be given the such levy by making a suitable rule under section 11 of the Finance Act.

2. It is not possible to issue an executive order as suggested in para 2 of the Finance Department note onp.16 However, to achieve the object in view, a rule may be made in virtue of the power given by clause (d) of sub-section (1) of section 11 of the Act. Under that clause power is given to the Government to make rules providing for any other matter for which there is no provision or insufficient provision is in the opinion of the Government necessary for giving effect to theprovisions of the said part. This provision may be pressed into service, and a rule on the lines suggested below may be made:

" Electricity duty on the units of energy consumed by any industrial undertaking for the purposes of lights and fans used for such undertaking shall be levied at the rate specified for any other purpose in the first Schedule to Part II of the Act.

Provided that nothing in this rule shall apply to lights and fans used for residential and office purposes by such undertaking.

3. As the question is not entirely free doubt, it wohle be be desirable to put the matter on a perfectly valid basis by an amendment of the Act at the next Budget session.

Sd/- J.R.D.
Additional Secretary to Government.

U.R. to F.D.No. 4135

dated 16th April 1949.

E.K.N.2/6/56.

Legal Department.

The draft notification at page 27 as amended is in order.

2. As the changes proposed to be made in the rules are substantial it would be neces-sary to republish the rules for inviting objections and suggestions.

Sd/ J. R. D.

Additional Secretary to Government.

U.R. to R.D., No. 5357, dated the 14th May 1949.

E.K.N. 2/6/56-40.

Legal Department.

It is not necessary to amend the Act for the object in view. Advertisements appearing in news papers having a certain circulation or in sch ol or college magazines can be considered to be a class of advertisements within the meaning of section 36 of the Act and can be exempted from payment of the tax under that section.

Sd/ J. R. D.

Additional Secretary to Government.

U.R. to F.D. No. 456Conf1, dated the 21st July 1949.

S.K.N. 2/6/56-

4C.

Legal Department.

The draft Bombay Newspaper Advertisements Tax Tribunal Regulations at pages 3-31 ante, as slightly amended, are in order.

2. As Stated in para. 2 of the F.D. office note at page 1 ante Forms B, C. and D have been suitably modified.

Sd/- J. R. D.

Additional Secretary to Government

U.R. to F.D. No 8716, dated 3rd August 1949.

E.R.N. 2/6/56.

40.